IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 5507 of 2005

Between:

Nunavath Lachiram, S/o. Gemya,
Laxmapur Village, Jakranpally Mandal, Nizamabad District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Nizamabad District.
2 The Advisory Board, constituted under Section 9 of the

A.P.D.A.B.L Act,1986, Secretariat, Hyderabad.
3 The Chief Secretary Government, General Administration,
Law & Order - II Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Habeas Corpus by declaring the impugned order of detention dt 16-08-2004 in proceedings RC No.E2/720/2004 passed by the 1st respondent U/S 3 (1) and Section 3 (2) R/w Section 2 (a) and 2 (b) of A.P. Prevention of Dangerous Activities of Boot Leggers Act, as being illegal, arbitrary and unconstitutional being violative of Articles 14, 21 and 22 (5) of Constitution of India and consequently release the detenu Sri Nunavath Ganesh and pass such other and further orders.

Counsel for the Petitioner:MR.B.VIJAYSEN REDDY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.5507 OF 2005

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties.

This petition has been filed by the father of the detenu challenging the order passed by the Magistrate under Section 3(1) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

Counter has been filed. We have perused the record. One of the grounds challenging the order of detention is that the detenu was not informed that he has a right to make a representation to the detaining authority. It is not denied by the other side and the record also does not reveal that the detenu had been informed that he has a right to make representation to the detaining authority, although, he was informed that he can make a representation to the Chief Secretary, Government of Andhra Pradesh and also to the Advisory Board. This controversy has been considered by this Court in a judgment reported in ***Pabba Yadagiri v. Collector and District Magistrate, Nalgonda.*** Following the same judgment, we feel that since the detenu has not been informed that he has a right to make representation to the detaining authority, therefore, the valuable right under Article 22(5) of the Constitution of India has been denied to him. Hence, the order of detention on this ground alone can be quashed.

For these reasons, the writ petition is allowed. The order of detention is quashed.

The detenu shall be released from custody forthwith, if he is not required in any other case. No order as to costs.

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(BILAL NAZKI, J)

30th March, 2005.

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(L.NARASIMHA REDDY,J)

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To

1 The Collector and District Magistrate, Nizamabad District.
2 The Advisory Board, constituted under Section 9 of the

A.P.D.A.B.L Act,1986, Secretariat, Hyderabad.
3 The Chief Secretary Government, General Administration,
Law & Order - II Department, Secretariat, Hyderabad.

4 Two C.Cs to the Advocate General, High Court Buildings, A.P.,

Hyderabad (OUT)

5 Two C.D copies